

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:10cv056**

**MYRA B. AUSTIN,**

**Plaintiff,**

**vs.**

**MICHAEL J. ASTRUE,  
COMMISSIONER  
OF SOCIAL SECURITY,**

**Defendant.**

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**ORDER**

**THIS MATTER** is before the Court on Plaintiff's Response to the Court's Order of August 17, 2010 [Doc. 6], an Order made pursuant to Federal Rule of Civil Procedure 4(m).

Plaintiff's counsel once again cites to inadequate training and supervision of staff as an explanation for his oversight in effecting service of process.

Counsel also avers that "[w]e will comply with the additional training requirements for counsel and staff." [Doc. 6-2]. There being no such directive in any order of this Court in the above-captioned matter, the Court, taking judicial notice of the various Orders it has entered recently, concludes that counsel, V. Lamar Gudger, III, is referring to an Order entered in a completely different matter where he is not counsel of record,

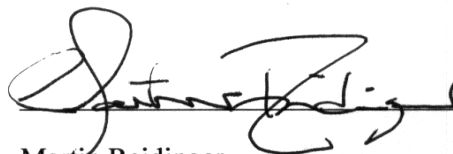
but rather a case wherein another attorney who shares office space with Attorney Gudger is counsel of record. While the Court appreciates the spirit of counsel's promise to comply, it is concerned about the implications that this promise, in this context, makes about who (which of the two attorneys or some other staff person) is truly directing the representation of this Plaintiff as well as who is directing the representation of the Plaintiff in the other case mentioned above (wherein the directive for training was entered).

Plaintiff's counsel seeks 30 additional days within which to effect service, which is over and above the nearly 6 months he has already had for doing so. The Court would have expected to see proof of service filed with Plaintiff's Response, given the circumstances and the fact that two weeks passed between the Court's Order and the Plaintiff's Response. [Doc. 5 & 6]. The Court will allow an additional ten (10) days, but counsel should expect that no further extension will be granted.

**IT IS, THEREFORE, ORDERED** that Plaintiff shall effect service upon Defendant within ten (10) days of the entry of this Order.

**IT IS SO ORDERED.**

Signed: September 6, 2010

  
Martin Reidinger  
United States District Judge

